

3-11000

**APPEAL COURT BRIEF
BRIEF OF THE APPELLANT
EXHIBIT A**

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

CLERK, SS

NO. 2003-P-1147

COMMONWEALTH
PLAINTIFF / APPELLEE

V.

WILLIAM SANTIAGO
DEFENDANT / APPELLANT

ON APPEAL FROM A JUDGMENT AND ORDER OF THE
CHELSEA DISTRICT COURT OF SUFFOLK COUNTY

BRIEF FOR THE APPELLANT

Dated: 10/23/03

Respectfully submitted,

William Santiago

P. O. Box 8000
Shirley, MA.
01464

TABLE OF AUTHRITIES

<u>Burns v. Commonwealth</u> 430 Mass. 444 (1999)	6
<u>Com. v. [illegible]</u> 356 Mass. 351 (1969)	4
Com. v. Demarco 387 Mass 837 (1982)	7
Com. v. Duquette 386 Mass 837 (1982)	5, 6
Com. v. Fanelli [illegible] (1992)	7
Com. v. Gonzales 43 Mass.App.Ct. 926 (1997)	3
Com. v. Grant 426 MASS. 667 (1998)	3, 4
Com. v. Hilaire 51 Mass.App.Ct. 818 (2001)	5
Com. v. Jackson 45 Mass.App.Ct. 666 (1998)	5
Com. v. Lewis 399 Mass. 761 (1987)	6
Com. v. Lopez 426 Mass 657 (1998)	7
Com. v. Mele 20 Mass.App.Ct. 958 (1985)	6
Com. v. Moore 408 Mass. 117 (1990)	6
Com. v. Nolin 373 Mass. 45 (1977)	7
Com. v. Nydam 21 Mass.App.Ct. 66 (1994)	3
Com v. Russell 37 Mass.App.Ct. 152 (1994)	6

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss

Chelsea District Court
Docket # 91 cr 3699
91 cr 3700
Def. Warr. 9114 sp 155

A. Santiago

Vs.

Wm. Santiago

NOTICE OF STIPULATION OF DISMISSAL

I Arlene Santiago, the plaintiff, respectfully moves, pursuant to Mass. Rule Civil Procedure 41(a), that the above-entitled matter be dismissed based on I no longer have interest in pursuing this matter.

I, the defendant Wm. Santiago respectfully moves pursuant to Mass. Rule Civil Procedure 41(a), that the above-entitled matter be dismissed. I also have no interest in pursuing the matter.

Signed under the pains and penalty of perjury this 16th day of April, 1994,


Arlene Santiago


William Santiago

12

12



COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss

Chalson, ss
No. 9114 CR 3699, 3700
8714 CR 2106

Commonwealth

v.

William Santiago

DEFENDANT'S MOTION FOR A NEW TRIAL PURSUANT TO RULE
30 (b) OF THE MASSACHUSETTS RULES OF CRIMINAL PROCEDURES

Now comes the defendant, William Santiago, and moves that
this Honorable Court grant him a new trial pursuant to Rule
30 (b) of the Massachusetts Rule of Criminal Procedure.

The grounds for this motion are set out in more detail
in the attached.

Dated: December 9, 2002

12/16/02. Denied without
further hearing. There is no
basis to overcome the presumption
of regularity in these old proceedings,
and this motion was not timely filed.
T. H. Bailey, J.

Respectfully submitted,

William Santiago

William Santiago, pro se
P.O. Box 8000
Shirley, MA. 01464

SUPREME JUDICIAL COURT
NOTICE OF DENIAL
EXHIBIT E

Supreme Judicial Court for the Commonwealth of Massachusetts
One Beacon Street, Third Floor, Boston, Massachusetts 02108
(617) 557-1020

William Santiago
Souza Baranowski Corr. Center
P.O. Box 8000 (W55337)
Shirley, MA 01464

RE: Ticket No. 17R-14164

COMMONWEALTH
vs.
WILLIAM SANTIAGO

Chelsea District, SU No. 8714CR2106 9114CR3699 & 9114CR3700
A.C. No. 2003-P-1147

NOTICE OF DENIAL OF F.A.R. APPLICATION

Please take note that on 06/30/04, the above-captioned Application for Further Appellate Review was denied.

Susan Mellen, Clerk

Dated: June 30, 2004

To: Rami M. Vanegas, A.D.A.
William Santiago

Commonwealth of Massachusetts

Appeals Court for the Commonwealth

At Boston,

In the case no. 03-P-1147

COMMONWEALTH

vs.

WILLIAM SANTIAGO.

Pending in the Chelsea District

Court for the County of Suffolk

Ordered, that the following entry be made in the docket:

Order denying motion for
new trial affirmed.

Order denying motion for
appointment of counsel
affirmed.

By the Court,

Ashley Thomas, Clerk
Date May 20, 2004

NOTE:

The original of this writ is rescript
with this in due season pursuant
to M.R.A.P.23

APPEALS COURT

The charges in the 1987 case were dismissed without a guilty finding ever having entered. A finding of sufficient facts is not an appealable order. See Commonwealth v. Walsh, 43 Mass. App. Ct. 324 (1997). Although an order of dismissal is appealable, it is not the order appealed from, nor is the defendant aggrieved thereby. The dismissal of the charges also renders moot any defects in the underlying proceedings. See Burns v. Commonwealth, 430 Mass. 444, 447 (1999).

The charges in the 1991 cases were placed on file without a change of plea. Preliminarily, we observe that where a complaint is filed with the defendant's consent, the disposition is not appealable. See Commonwealth v. Sasu, 404 Mass. 596, 598 (1989). The defendant's affidavit in support of his new trial motion makes no claim that the charges were filed without his consent or that it was error to do so. Moreover, the defendant has failed to submit evidence sufficient to rebut the presumption of regularity accorded to these proceedings. See Commonwealth v. Lopez, 426 Mass. 657, 661-665 (1998); Commonwealth v. Grant, 426 Mass. 667, 671 (1998). Finally, the defendant has made no effort to show that he is prejudiced by the dismissal of the charges and seeks at this juncture.

On this record, the judge did not abuse his discretion in refusing to appoint counsel for the defendant to pursue his new trial motion. See Commonwealth v. Conceicao, 388 Mass. 255, 263

COURT DIVISION Chelsea		NAME, ADDRESS AND ZIP CODE OF DEFENDANT William Santiago 52 Hawthorn Street Chelsea, Mass.		TERMS OF RELEASE <input type="checkbox"/> Arraigned before J. <input checked="" type="checkbox"/> Arraigned before J. RAS	
DEF. DOB 3/11/68		OFFENSE CODE(S) 401.400		DATE 5-18-87	
DATE OF OFFENSE 5/25/87		PLACE OF OFFENSE Chelsea		<input checked="" type="checkbox"/> Advised of right to counsel	
COMPLAINANT James O'Brien		POLICE DEPARTMENT Chelsea		<input type="checkbox"/> Advised of right to drug exam	
DATE OF COMPLAINT 5/18/87		RETURN DATE AND TIME Arrest		<input type="checkbox"/> Advised of right to bail review	
COUNT-OFFENSE A. DISORDERLY PERSON C272 S53				<input type="checkbox"/> Advised of right to F.I. Jury Trial	
				<input type="checkbox"/> Waives <input type="checkbox"/> Requests F.I. Jury Trial	
				<input type="checkbox"/> Warrant issued <input checked="" type="checkbox"/> Warrant recalled	
				<input type="checkbox"/> Default removed <input checked="" type="checkbox"/> Warrant issued	
				<input type="checkbox"/> Default removed <input type="checkbox"/> Warrant recalled	
				FINE SURFINE COSTS TOTAL DUE	
				50	

DATE 5-18-87		PLEA <input checked="" type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo		IMPRISONMENT AND OTHER DISPOSITION	
12-16-87		<input type="checkbox"/> New Plea: <input checked="" type="checkbox"/> Admits suff. facts		6804A000 01/27/88J007	
FINDING 77		JUDGE X03			
		<input type="checkbox"/> Cont. w/o finding until:		FINAL DISPOSITION DATE	
		<input type="checkbox"/> Appeal of find. & disp. <input type="checkbox"/> Appeal of disp.		<input type="checkbox"/> Discharged from probation	
				<input type="checkbox"/> Dismissed at request of probation	
				FINE SURFINE COSTS TOTAL DUE	
				25 W 50	

COUNT-OFFENSE B. AFFRAY, COMMON LAW					
DATE 5-18-87		PLEA <input checked="" type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo		IMPRISONMENT AND OTHER DISPOSITION	
12-16-87		<input type="checkbox"/> New Plea: <input checked="" type="checkbox"/> Admits suff. facts		6804A000 01/27/88J007 50.00	
FINDING 77		JUDGE X03		6804A000 01/27/88VWAF 25.00	
		<input type="checkbox"/> Cont. w/o finding until:		FINAL DISPOSITION DATE	
		<input type="checkbox"/> Appeal of find. & disp. <input type="checkbox"/> Appeal of disp.		<input type="checkbox"/> Discharged from probation	
				<input type="checkbox"/> Dismissed at request of probation	
				FINE SURFINE COSTS TOTAL DUE	
				25 W 50	

COUNT-OFFENSE					
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
		<input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo			
		<input type="checkbox"/> New Plea: <input type="checkbox"/> Admits suff. facts			
FINDING		JUDGE			
				FINAL DISPOSITION DATE	
		<input type="checkbox"/> Cont. w/o finding until:		<input type="checkbox"/> Discharged from probation	
		<input type="checkbox"/> Appeal of find. & disp. <input type="checkbox"/> Appeal of disp.		<input type="checkbox"/> Dismissed at request of probation	
				FINE SURFINE COSTS TOTAL DUE	

COUNT-OFFENSE					
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
		<input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo			
		<input type="checkbox"/> New Plea: <input type="checkbox"/> Admits suff. facts			
FINDING		JUDGE			
				FINAL DISPOSITION DATE	
		<input type="checkbox"/> Cont. w/o finding until:		<input type="checkbox"/> Discharged from probation	
		<input type="checkbox"/> Appeal of find. & disp. <input type="checkbox"/> Appeal of disp.		<input type="checkbox"/> Dismissed at request of probation	
				FINE SURFINE COSTS TOTAL DUE	

CONT. TO	PLEA CODE	CONT. TO	PURPOSE	DATE	TAP NO.	START	STOP
4-23-87	T						
10-9-87	T						
12-16-87	T						
1-20-88	py						

6

COURT DIVISION CHelsea		NAME, ADDRESS AND ZIP CODE OF DEFENDANT William Santiago C/O Jean's West Assembly Square Mall 133 Middlesex Avenue Somerville MA 02145		Waived <input checked="" type="checkbox"/> Retained <input type="checkbox"/> Assigned <i>H. M. M.</i>	
DATE OF COMPLAINT 10/4/91		OFFENSE CODE(S) 605		TERMS OF RELEASE	
COMPLAINANT Arlene Santiago		POLICE DEPARTMENT (if applicable) Chelsea		DATE 10-4-91	
RETURN DATE AND TIME 10/4/91 8:30 A.M.		52 Hawthorne Street, Chelsea		PROCEEDING <input checked="" type="checkbox"/> Arraigned before J. <i>EJP</i> <input type="checkbox"/> Advised of right to counsel <input type="checkbox"/> Advised of right to drug exam <input type="checkbox"/> Advised of right to bail review <input type="checkbox"/> Advised of right to F.I. Jury Trial <input type="checkbox"/> Waives Requests F.I. Jury Trial <input type="checkbox"/> Advised of alien rights <input checked="" type="checkbox"/> Warrant issued <input type="checkbox"/> Default warrant issued <input type="checkbox"/> Default removed <input type="checkbox"/> Warrant recalled <input type="checkbox"/> Warrant issued <input type="checkbox"/> Default warrant issued <input type="checkbox"/> Default removed <input type="checkbox"/> Warrant recalled	
COUNT-OFFENSE A. ASSAULT AND BATTERY C265 S13A		FINE		SURFINE	
DATE OCT 26 1994		PLEA <input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo <input type="checkbox"/> New Plea <input type="checkbox"/> Admits suff. facts		IMPRISONMENT AND OTHER DISPOSITION	
FINDING OCT 26 1994		JUDGE <i>EJP</i>		DATE <i>NP Filed w/o charging fine</i>	
<input type="checkbox"/> Cont. w/o finding until: <input type="checkbox"/> Appeal of find. & disp. <input type="checkbox"/> Appeal of disp.		FINAL DISPOSITION <input type="checkbox"/> Discharged from probation <input type="checkbox"/> Dismissed at request of probation		COSTS	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE		PLEA		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		DATE	
COUNT-OFFENSE		FINE		TOTAL DUE	
DATE					

COURT DIVISION CHELSEA		NAME, ADDRESS AND ZIP CODE OF DEFENDANT William Santiago C/O Jean's West Assembly Square Mall 133 Middlesex Avenue Somerville MA 02145		ATTORNEY <input type="checkbox"/> Waived <input checked="" type="checkbox"/> Retained <i>N. M. Mulla</i> <input type="checkbox"/> Assigned																									
OFF DOB AND SEX		DEFENSE CODE(S) 509,643		TERMS OF RELEASE																									
DATE OF COMPLAINT 8/4/91		POLICE DEPARTMENT (if applicable) 52 Hawthorne St. Chelsea Chelsea		<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th style="width:15%;">DATE</th> <th style="width:85%;">PROCEEDING</th> </tr> <tr> <td>OCT 26 1994</td> <td><input checked="" type="checkbox"/> Arraigned before J. <i>EJP</i></td> </tr> <tr> <td></td> <td><input type="checkbox"/> Advised of right to counsel</td> </tr> <tr> <td></td> <td><input type="checkbox"/> Advised of right to drug exam</td> </tr> <tr> <td></td> <td><input type="checkbox"/> Advised of right to bail review</td> </tr> <tr> <td></td> <td><input type="checkbox"/> Advised of right to F.I. Jury Trial</td> </tr> <tr> <td></td> <td><input type="checkbox"/> Waives <input type="checkbox"/> Requests F.I. Jury Trial</td> </tr> <tr> <td></td> <td><input type="checkbox"/> Advised of alien rights</td> </tr> <tr> <td>10-11-91</td> <td><input checked="" type="checkbox"/> Warrant issued <i>NP</i> <input type="checkbox"/> Default warrant issued</td> </tr> <tr> <td>OCT 26 1994</td> <td><input checked="" type="checkbox"/> Default removed <input type="checkbox"/> Warrant recalled</td> </tr> <tr> <td></td> <td><input type="checkbox"/> Warrant issued <input type="checkbox"/> Default warrant issued</td> </tr> <tr> <td></td> <td><input type="checkbox"/> Default removed <input type="checkbox"/> Warrant recalled</td> </tr> </table>		DATE	PROCEEDING	OCT 26 1994	<input checked="" type="checkbox"/> Arraigned before J. <i>EJP</i>		<input type="checkbox"/> Advised of right to counsel		<input type="checkbox"/> Advised of right to drug exam		<input type="checkbox"/> Advised of right to bail review		<input type="checkbox"/> Advised of right to F.I. Jury Trial		<input type="checkbox"/> Waives <input type="checkbox"/> Requests F.I. Jury Trial		<input type="checkbox"/> Advised of alien rights	10-11-91	<input checked="" type="checkbox"/> Warrant issued <i>NP</i> <input type="checkbox"/> Default warrant issued	OCT 26 1994	<input checked="" type="checkbox"/> Default removed <input type="checkbox"/> Warrant recalled		<input type="checkbox"/> Warrant issued <input type="checkbox"/> Default warrant issued		<input type="checkbox"/> Default removed <input type="checkbox"/> Warrant recalled
DATE	PROCEEDING																												
OCT 26 1994	<input checked="" type="checkbox"/> Arraigned before J. <i>EJP</i>																												
	<input type="checkbox"/> Advised of right to counsel																												
	<input type="checkbox"/> Advised of right to drug exam																												
	<input type="checkbox"/> Advised of right to bail review																												
	<input type="checkbox"/> Advised of right to F.I. Jury Trial																												
	<input type="checkbox"/> Waives <input type="checkbox"/> Requests F.I. Jury Trial																												
	<input type="checkbox"/> Advised of alien rights																												
10-11-91	<input checked="" type="checkbox"/> Warrant issued <i>NP</i> <input type="checkbox"/> Default warrant issued																												
OCT 26 1994	<input checked="" type="checkbox"/> Default removed <input type="checkbox"/> Warrant recalled																												
	<input type="checkbox"/> Warrant issued <input type="checkbox"/> Default warrant issued																												
	<input type="checkbox"/> Default removed <input type="checkbox"/> Warrant recalled																												
COMPLAINANT Bruce D. Imbacuan		DATE OF COMPLAINT 9/5/91 H.																											
RETURN DATE AND TIME 10/4/91 8:30 A.M.		COUNT-OFFENSE UNDER																											
COUNT-OFFENSE A.MAL. DESTRUCTION OF PROP. XXXX \$250 C266 S127		FINE		SURFINE COSTS TOTAL DUE																									
DATE OCT 26 1994	PLEA <input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo <input type="checkbox"/> New Plea: <input type="checkbox"/> Admits suff. facts	IMPRISONMENT AND OTHER DISPOSITION																											
OCT 26 1994	FINDING <i>EJP</i>	JUDGE <i>NP Filed w/o Charge of Plea</i>																											
<input type="checkbox"/> Cont. w/o finding until: <input type="checkbox"/> Appeal of find. & disp. <input type="checkbox"/> Appeal of disp.		FINAL DISPOSITION <input type="checkbox"/> Discharged from probation <input type="checkbox"/> Dismissed at request of probation		DATE																									
COUNT-OFFENSE B. THREATENING TO COMMIT A CRIME C275 S2		FINE		SURFINE COSTS TOTAL DUE																									
DATE OCT 26 1994	PLEA <input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo <input type="checkbox"/> New Plea: <input type="checkbox"/> Admits suff. facts	IMPRISONMENT AND OTHER DISPOSITION																											
OCT 26 1994	FINDING <i>EJP</i>	JUDGE <i>NP Filed w/o Charge of Plea</i>																											
<input type="checkbox"/> Cont. w/o finding until: <input type="checkbox"/> Appeal of find. & disp. <input type="checkbox"/> Appeal of disp.		FINAL DISPOSITION <input type="checkbox"/> Discharged from probation <input type="checkbox"/> Dismissed at request of probation		DATE																									
COUNT-OFFENSE		FINE		SURFINE COSTS TOTAL DUE																									
DATE	PLEA <input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo <input type="checkbox"/> New Plea: <input type="checkbox"/> Admits suff. facts	IMPRISONMENT AND OTHER DISPOSITION																											
	FINDING	JUDGE																											
<input type="checkbox"/> Cont. w/o finding until: <input type="checkbox"/> Appeal of find. & disp. <input type="checkbox"/> Appeal of disp.		FINAL DISPOSITION <input type="checkbox"/> Discharged from probation <input type="checkbox"/> Dismissed at request of probation		DATE																									
COUNT-OFFENSE		FINE		SURFINE COSTS TOTAL DUE																									
DATE	PLEA <input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo <input type="checkbox"/> New Plea: <input type="checkbox"/> Admits suff. facts	IMPRISONMENT AND OTHER DISPOSITION																											
	FINDING	JUDGE																											
<input type="checkbox"/> Cont. w/o finding until: <input type="checkbox"/> Appeal of find. & disp. <input type="checkbox"/> Appeal of disp.		FINAL DISPOSITION <input type="checkbox"/> Discharged from probation <input type="checkbox"/> Dismissed at request of probation		DATE																									
COUNT-OFFENSE		FINE		SURFINE COSTS TOTAL DUE																									
DATE	PLEA <input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo <input type="checkbox"/> New Plea: <input type="checkbox"/> Admits suff. facts	IMPRISONMENT AND OTHER DISPOSITION																											
	FINDING	JUDGE																											
<input type="checkbox"/> Cont. w/o finding until: <input type="checkbox"/> Appeal of find. & disp. <input type="checkbox"/> Appeal of disp.		FINAL DISPOSITION <input type="checkbox"/> Discharged from probation <input type="checkbox"/> Dismissed at request of probation		DATE																									

CONT NO 10-26-94	NAME WABE	COURT TO	FEE	TAXES	START	STOP
10-26-94	WABE					
10-26-94	WABE					
10-26-94	WABE					
10-26-94	WABE					

V
ob

✓ Chelsea District Court
120 Broadway
Chelsea, MA. 02150

12/30/12

Re: Com. v. William Santiago
Docket #: 9114 CR 3699, and 3700 / 8714 CR 2106

Clerk Magistrate:

Enclosed for filing please find the following documents:

1. Notice of Appeal
2. Certificate of Service

Please send me two updated certified copies of the
above-mentioned docket entrie sheet for appellate purposes.

Thank you.

Sincerely,

William Santiago 12/30/12

William Santiago, pro se

01464

cc: file

Doc.

Rose Mary Daly A.D.A.

15
02600
07920

SUPREME JUDICIAL COURT
APPLICATION FOR FURTHER APPELLATE REVIEW
EXHIBIT D



COMMONWEALTH OF MASSACHUSETTS

SUFFOLK. SS.

S.J.C. NO. *FAR-14164*

A.C. NO. 2003-P-1147

COMMONWEALTH
Plaintiff / Appellee

v.

WILLIAM SANTIAGO
Defendant / Appellant

APPLICATION FOR FURTHER APPELLATE REVIEW
OF THE
DEFENDANT - APPELLANT

JUNE 1. 2004

WILLIAM SANTIAGO, PRO SE
P.O. BOX 8000
SHIRLEY, MA. 01464



MEMORANDUM IN SUPPORT OF APPELLANT'S
APPLICATION FOR FURTHER APPELLATE REVIEW

STATEMENT OF PRIOR PROCEEDINGS

On 12/9/02, appellant filed a motion for a New Trial with exhibits, Affidavit in Support, Appointment of Counsel and Certificate of Service in the Chelsea District Court. Hereafter lower court.

On 12/16/02, the lower court denied appellant's Motion for a New Trial and stated that his Motion for Appointment of Counsel was moot.

On 12/30/02, appellant filed his timely Notice of Appeal.

On 8/28/03, the lower court issued its Notice of Assembly of Record.

On 10/23/03, appellant filed his brief and appendix in the Appeals Court.

On 11/19/03, the Commonwealth filed its Motion under Mass.R.A.P. 15 in lieu of a brief.

On 5/20/04, the Appeals Court Denied appellant's appeal.

No rehearing was filed in the Appeals Court.

Appellant has not obtained appellate review in the Supreme Judicial Court.



ARGUMENT

1. THERE WAS A BASIS TO OVERCOME THE PRESUMPTION OF REGULARITY IN THE CASES OF THE LOWER COURT.

The lower court denied appellant's Motion for a New Trial without a hearing and without giving the Assistant District Attorney's Office the opportunity to respond to the appellant's motion.

Given the long delay in appellant's attack on his guilty pleas, it's appropriate to accord the plea proceedings a presumption of regularity. Put another way the burden fall on the appellant to persuade the lower court that he was without legal assistance at the time of the pleas. Com v. Gonzales, 43 Mass.App.Ct. 926 (1997).

Due to the unavailability of the original judge, Assistant District Attorney and the destruction of the court cassette tape because of the amount of time passed the record could only be constructed by the docket entry sheets and appellant's memory.

The appellant has shown in his Motion for a New Trial that he had basis that adequately supports a negation of his conviction or at very least, warranted further inquiry in the lower court. Com v. [redacted], 407, 41, (1988).

Appellant was inexperienced when it came to the district court procedures. Appellant had no awareness of the mechanics of a trial. He did not understand the

86

b

As stated in appellant's Reply Brief, the waiver submitted by the A.D.A. in his motion submitted to the Appeals Court.

Does not have a docket number referenced on it. It does not have a date on it. Nor is it signed by a judge, clerk or A.D.A. of the lower court. It also does not contain the title of the case or the lower courts name and county.

The waiver is not written or referenced in the docket entry sheet, submitted by the parties in this case. (Ex. 13). There is also no mention of any colloquy ever given.

II. THE CASES IN DOCKET NUMBERS 9114CR3699 AND 9114CR3700 WERE FILED WITHOUT APPELLANTS CONSENT.

In docket numbers 9114CR3699 (Assault and Battery) and 9114CR3700 (Malicious Destruction of Property and Threat to Commit a Crime). These docket / cases were filed without appellant's consent and it was error for this court not to grant a new trial to correct the errors.

In appellant's Reply Brief, page 3, argument III, appellant argues that the cases were filed without his consent. Appellant did not give verbal or written permission

Both the appellant and the then original complainant in the lower court had filed a joint affidavit motion. Stating that both parties wanted to dismiss the criminal matter. See supplemental appendix. (Ex. 12).

APPEAL COURT REPLY BRIEF
REPLY BRIEF OF THE APPELLANT
EXHIBIT C

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

SUFFOLK, SS

NO. 2003-P-1147

COMMONWEALTH
PLAINTIFF / APPELLEE

V.

WILLIAM SANTIAGO
DEFENDANT / APPELLANT

ON APPEAL FROM A JUDGMENT AND ORDER OF THE
CHELSEA DISTRICT COURT OF SUFFOLK COUNTY

REPLY BRIEF FOR THE APPELLANT

Dated: NOVEMBER 2003

William Santiago

700 Shirley St. 8000
Shirley, MA.
01464

ARGUMENT

- I. THE APPELLANT DID FILE A TIMELY NOTICE OF APPEAL ON DECEMBER 30, 2002.

The appellant did file a timely notice of appeal on December 30, 2003.

To further this point, on August 30, 2003, the Chelsea District Court sent the appellant a copy of the previously submitted Notice of Appeal and a copy of the lower courts Notice of Assembly of Record on Appeal.

The Notice of Assembly of Record on Appeal is signed by the Clerk, Kevin Murphy, (Add 1). ^{1/}

He sent the appellant back a copy of the cover page of his Notice of Appeal (Add 2). Stamped with the courts date stamp. Being received by the lower court on December 31, 2002, 11:15 am.

The lower court also sent the appellant a copy of the Notice of Appeal, notice (Add 3). Stamped with the court's seal, stamped with the " A TRUE COPY ATTEST" stamp and stamped with the Clerk's signature.

stamps previously mentioned (Add 4).

^{1/} References in this reply brief will be as follows: to the Addendum in this reply brief as (Add #).

the lower courts' name and county. The appellant's signature on the Waiver, is not similar to the appellant's signatures submitted to this court on his documents.

The Waiver is not written or referenced on any of the submitted docket entry sheets submitted by either party. Nor is there any reference in the record of any type of colloquy given.

III. IN DOCKET NUMBERS 9114 CR 3699 AND 3700, THE CASES WERE FILED WITHOUT APPELLANT'S CONSENT.

Although appellant was represented by counsel. Counsel was ineffective as previously stated in appellant's brief at page 4 and 5.

Both the appellant and the alleged complainant had wanted the charges to be dismissed. They both had filed a joint affidavit / motion stating so. Which can be seen in appellant's appendix, page 43, submitted with his brief.

This strongly suggest that docket numbers 9114 CR 3699 and 3700 were filed without the appellant's

A. ISSUES NOT ADOT.

The original cases are not dismissed. They can cause the appellant harm. Such as giving the appellant a much higher sentence in federal crimes, according to federal sentencing guidelines. See also state guidelines.

SUPPLEMENTAL APPENDIX

ISSUED PRESENTED

- I. WAS THERE A BASIS TO OVERCOME THE PRESUMPTION
OF REGULARITY IN THE CASES OF THE LOWER COURT? 2
- II. WAS THE MOTION FOR NEW TRIAL TIMELY FILED? 7
- III. WAS APPELLANT'S MOTION FOR APPOINTMENT OF COUNSEL
MOOT? 7

for a new trial on dockets from the year of 1987 and 1991, in a pro se manner.

Ultimately the lower court did not give the Assistant District Attorney's Office opportunity to respond to his motion for a new trial.

The lower court judge, Timothy H. Gailey, denied appellant's motions within days of receiving the motions.

The lower court denied appellant's motion for a new trial on 12/16/02 by stating:

" Denied without further hearing. There is no basis to overcome the presumption of regularity in these old proceedings and this motion was not timely filed." (RA 37)

The lower court also stated, his motion for appointment of counsel was "moot". (RA 36).

Appellant filed a timely notice of appeal. Appealing the lower courts decision of the denial and mootness.

ARGUMENT

I. THERE WAS A BASIS TO OVERCOME THE PRESUMPTION OF REGULARITY IN THE CASES OF THE LOWER COURT.

The lower court denied appellant's motion for a new

2/ The motion for a new trial and supporting documents were mailed on 12/9/02. The lower court made it's decision on 12/6/02. Three days for mailing process. Signifies the lower court actually took approx. four days in its decision.

Appellant was unrepresented by counsel in docket # 198714 CR 2106. The S.C.C. had stated in this matter that:

"Defendant's right to counsel and consultation with counsel are significant factors in determining whether guilty plea and admission to sufficient facts forming basis thereof was knowingly and voluntarily made in absence of specific recitation of defendant's intra-trial rights." Com. v. Grant, 426 Mass. 667 (1998).

A. OTHER FACTORS THAT THE COURT SHOULD CONSIDER.

The lower court should have held an evidentiary hearing since the judge that denied appellant's motion for a new trial was not the original judge that heard his cases.

1. WAIVERS AND CERTIFICATES NOT FILED.

In docket 198714 CR 2106 there were no waivers or certificates signed and dated by the appellant. He was indigent at the time. The lower court was required:

"to advise a defendant of his right to counsel and to assign counsel and to procure counsel and to file waiver and certificate if defendant elects to proceed without counsel is designed to insure that defendant in criminal case is made aware of his right to counsel and to eliminate from record speculation and doubt on review whether defendant intelligently waived his right and judge must follow with particularity." Com. v. Grant, 426 Mass. 667 (1998).

2. INEFFECTIVE COUNSEL

On docket number 9114 CR 3699 and 3700 (RA 18 and 19) appellant was represented by counsel. However, counsel was ineffective. In the lower court the alleged

that appellant admitted to sufficient facts. There was no colloquy done. Which establishes that the lower court;

" failed to advise defendant that, in admitting to sufficient facts he was waiving his privilege against self-incrimination." Boyle v. Com., 430 Mass. 444 (1999).

As well as other rights. Com. v. Duquette, 386 Mass. 834, 845-846 (1982); Com. v. Lewis, 399 Mass. 761 763-764 (1987) and Boykin v. Alabama, 395 U.S. 238, 242-247 (1969).

5. COLLOQUY WAS NOT DONE BY THE LOWER COURT IN EITHER OF THE CASES.

On all the cases the lower court did not engage in a plea colloquy with the appellant for the purpose of verifying that his admission was voluntary, knowingly and intelligent.

Had the lower court had engaged in a plea colloquy. The appellant would have not given up all his rights and privileges. It was clear by the record that all parties wanted the criminal cases dismissed.

" The judge must conduct a colloquy to determine whether the defendant's admission to sufficient facts and his waiver of a jury trial were knowingly and voluntarily." See Com. v. Mole, 39 Mass.App.Ct. 958 (1997).

Therefore, the denial of the defendants motion was "manifestly unjust". Com. v. Moore, 408 Mass. 117, 125 (1990).

With an attorney, the A.D.A. would have had to file their response/answer. Due to the lower courts immediate denial of appellant's motion for a new trial and having to wait his motion for counsel. This pro se appellant had no decision but to appeal to this court.

CONCLUSION

For the foregoing reasons stated alone and or in combination the appellant's brief should be granted.

Appellant requests that this court order the lower court to hold an evidentiary hearing and / or approve his motion for a new trial.

Dated: 10/25/03

Respectfully submitted,



William Santiago, pro se
P.O. BOX 8000
Shirley, MA. 01464

COMMONWEALTH OF MASSACHUSETTS

APPEALS COURT

Suffolk, ss.

No. 2003-P-1147

COMMONWEALTH
PLAINTIFF / APPELLEE

V.

WILLIAM SANTIAGO
DEFENDANT / APPELLANT

ON APPEAL FROM A JUDGMENT AND ORDER OF THE
CHELSEA DISTRICT COURT OF
SUFFOLK COUNTY

APPENDIX FOR THE APPELLANT

Dated : 10/23/03

William Santiago
P.O. BOX 8000
Shirley, MA.

03/04

X
oo

Chelsea District Court
120 Broadway
Chelsea, Ma. 02150

2004/08/24
Re: Com. v. William Santiago
Docket # 9114 CR 3699, 3700 and 8714 CR 2106

Clerk Magistrate, Kevin G. Murphy:

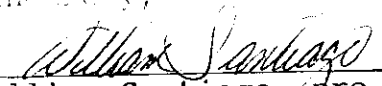
Enclosed please find the following motions to be filed
and heard in your court.

1. DEFENDANT'S MOTION FOR A NEW TRIAL PURSUANT TO RULE
30 (b) OF THE MASSACHUSETTS RULES OF CRIMINAL PROCEDURE.
2. DEFENDANT'S AFFADAVIT IN SUPPORT FOR A NEW TRIAL
3. DEFENDANT'S MOTION FOR APPOINTMENT OF COUNSEL
4. CERTIFICATE OF SERVICE

For preparation purposes, please send me notification in
advance of any future hearing(s) in this matter. As I'm
representing myself pro se.

Thank you.

Sincerely,



William Santiago, pro se
P.O. BOX 8000
Shirley, MA. 01464

cc: file

Enc.

MA - Chelsea District Court
District Attorneys' Office - Suffolk County



OVERVIEW

On May 18, 1987, William Santiago, was arraigned in the (old) Chelsea District Court, Suffolk County, on docket number 921A CR 3106, for:

- A. Disorderly Person (G.L. c. 272, §53) and
- B. Affray (Common Law)

See (Ex. A).

After various continuances for the purpose of trial, without representation, on December 16, 1987. As read by the docket entry sheet. Mr. Santiago, admitted to sufficient facts.

Due to the courts error, a default warrant was issued on January 20, 1988. Than the default was removed on January 26, 1988.

On January 27, 1988, Mr. Santiago paid fifty dollars for court costs and twenty five dollars for victim witness fee. Although he was the victim in this case. Paying these fines eventually dismissed the charges.

9114 CR 3699, and 3700 Dockets

On October 5, 1991 the complaints were made against William Santiago on the following docket numbers: 9114 CR 3699 and 3700 on docket number: 9114 CR 3699 and 3700.

- A. Malicious Destruction of Property under \$250.00 (G.L. c.266 §127) and
 - B. Threatening to Commit a Crime (G.L. c. 275 §2)
 - C. Assault and Battery (G.L. c.265 §13A)
- See (Ex. B and C)

REQUIREMENT OF A PROPER PLEA PROCEEDING

The Massachusetts Rules of Criminal Procedure Rule 12 controls guilty plea proceedings. See (Ex. M):

(2) ADMISSION OF SUFFICIENT FACTS. In a District Court jury-waived session a defendant may, after a plea of not guilty, admit to sufficient facts to warrant a finding of guilty."

GUILTY PLEA - PROCEEDINGS BEFORE JUDGMENT

G.L. 278, §18 second paragraph, See (Ex. J) states:

"If a defendant, notwithstanding the requirements set forth herein before, attempts to enter a plea or statement consisting of an admission of facts sufficient for finding of guilt, or some similar statement, such admission shall be deemed a tender of a plea of guilty for purposes of the procedures set forth in this section."

GROUND I

MR. SANTIAGO'S ADMISSION TO SUFFICIENT FACTS ON 8714 CR 2106 WAS NOT KNOWINGLY, INTELLIGENTLY AND VOLUNTARILY MADE.

Right to counsel

It has been determined by the Supreme Judicial Court in Cardran v. Com., 356 Mass. 351 (1969), through the rules for the Regulation of Practice before the Full Court, rule 3:10, 351 Mass. 791, that:

"If a defendant pleads guilty to a crime for which a sentence of imprisonment is possible, and if he is unable to obtain counsel, the judge shall advise him of his right to counsel and shall not accept his plea until he has been advised of the proceedings unless he elects to proceed without counsel or is able to obtain counsel.

If the judge finds that the defendant is able to procure counsel, he shall make a finding to that effect which shall be filed with the papers in this case.



The Supreme Judicial Court held that:

"Colloquy held in connection with defendant's admission to sufficient facts with respect to criminal charges against him was deficient, where judge failed to advise defendant that, in admitting to sufficient facts, he was waiving his privilege against self-incrimination."

Burns v. Commonwealth, 430 Mass. 444 (1999).

In Mr. Santiago's case, not only was he not advised that he was waiving his privilege against self-incrimination.

He was also not advised against his other two constitutional rights, the three deportation rights, or any rights at all.

The judge is to determine by means of an adequate colloquy that the plea tendered is both intelligently and voluntarily made. Commonwealth v. Correa, 43 Mass.App.Ct. 714, 717 (1997).

GROUND III

Affray

MR. SANTIAGO WAS CHARGED WITH AFFRAY ON 8714 CR 2106.
A CHARGE NOT SUPPORTED BY SUFFICIENT FACTS OR ANY EVIDENCE.

According to the docket entry sheet 8714 CR 2106 (Ex. A).
Mr. Santiago was charged with Disorderly and Affray. The place of offense was designated as "Chelsea".

The relevant of affray is:

"Whoever, without provocation, commits an affray, shall be punished in the case of a first offense, by imprisonment in the House of Correction for not more than three months, and in case of refusal may be committed as provided in section five."

See G.L. c. 275, §14 (Ex. F). and G.L. c. 275, §1.

The complainant did not state it was in a court or in front of a justice. Mr. Santiago found no other Massachusetts General



Mr. Santiago's last place of abode was never the Assembly Square Mall, c/o Jeans West, Somerville, MA.

Thereby making even the attempt (if found) of trying to serve a summon. Would render it invalid and contrast to the law and rules of service of summons.

Error of the Default Warrant

The court thereby erred in issuing a default warrant for an unserved summon , under the mentioned court rules.

This error is now permanently recorded in Mr. Santiago's CORI/Criminal Record in error. It should be purged and expunged from all court records and CORI/crimianl records, as seen in (Ex. D). Even if this motion is denied.

It's been determined in the Appeals Court in Com. v. Pappas, 735 NE2d 1277 (Mass.App.Ct. 2000); and Com. v. S.M.F., 40 Mass.App.Ct. 42 at 46 (1996) that: "No rational public policy favors the preservation of a ... [materially misleading CORI] record."

Record keeping of unserved or served summons

Mass.R.Crim.P. Rule 6, (c), (4) the relevant part states:

" (4) Return. The clerk shall maintain a list of those summonses returned unserved which shall include a statement of the efforts made by the person to whom the summons is mailed pursuant to subdivision (c) (3) of this rule and returned, the clerk shall record that fact upon the list." See (Ex. L).

Mr. Santiago would request this court and the D.A. Office to verify if he was in fact served with the summons at his place of abode.

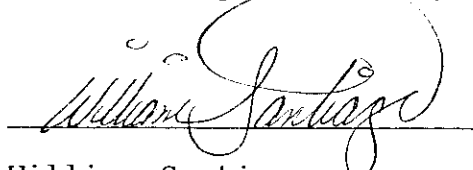
9

Y
db

In the interest of justice Mr. Santiago also requests that this court expunge and purge all and any defaults from his CORI/criminal records and court records. Which was placed in error by this Court.

Dated: December 9, 2002

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "William Santiago", is written over a horizontal line.

William Santiago, pro se
P.O. BOX 8000
Shirley, MA.
01464

11

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Chelsea District Court
No.s 9114 CR 3699
9114 CR 3700
8714 CR 2106

Commonwealth

v.

William Santiago

DEFENDANT'S MOTION FOR APPOINTMENT OF COUNSEL

Now comes the defendant, William Santiago, and requests that this court assign or appoint counsel to the defendant in this motion for new trial in accordance with Mass.R.Crim.P. 30 (c), (5).

The defendant is and has been indigent per the Massachusetts General Laws c. 261, 27A-G. See attached treasury printout.

If counsel is appointed. Defendant request this court that his Motion for a New Trial be ammended, modified or replaced with the consent of the defendant.

Dated: December 9, 2002

Respectiuliy submitted,

William Santiago

William Santiago, pro se
P.O. BOX 8000
Shirley, MA.
02150



CERTIFICATE OF SERVICE

I, William Santiago, the defendant in this Motion for a New Trial, has served a true copy upon :

Clerk, Kevin G. Murphy
Chelsea District Court
Criminal Matter
120 Broadway
Chelsea, MA. 02150

Assistant District Attorney⁺
Chelsea District Court
Criminal Matter
120 Broadway
Chelsea, MA. 02150

and the

District Attorney
District Attorney's Office
One Bulfinch Place
Boston, MA. 02114

By first class mail, postage prepaid.

Dated: December 9, 2002

William Santiago, pro se
P.O. BOX 8000
Shirley, MA.
01464

COURT DIVISION

Chelsea

NAME, ADDRESS AND ZIP CODE OF DEFENDANT

William Santiago
52 Hawthorn Street
Chelsea, Mass.

DEF. DOB

3/11/68

OFFENSE CODE(S)

403, 400

DATE OF COMPLAINT

5/15/87

Chelsea

COMPLAINANT

James O'Brien

POLICE DEPARTMENT

Chelsea

DATE OF COMPLAINT

5/18/87

RETURN DATE AND TIME

Arrest

COUNT-OFFENSE

A. DISORDERLY PERSON C272 S53

DATE

5-18-87
12-16-87

PLEA

☒ Not Guilty ☐ Guilty ☐ Nolo☐ New Plea:☒ Admits suff. facts

FINDING 771

JUDGE 2021

IMPRISONMENT AND OTHER DISPOSITION

6804A008 01/27/88COST 31.0

☐ Cont. w/o finding until:☐ Appeal of find. & disp.☐ Appeal of disp.

FINAL DISPOSITION

☐ Discharged from probation☐ Dismissed at request of probation

DATE

COUNT-OFFENSE

3. AFFRAY, COMMON LAW

DATE

5-18-87
12-16-87

PLEA

☒ Not Guilty ☐ Guilty ☐ Nolo☐ New Plea:☒ Admits suff. facts

FINDING 771

JUDGE 2021

IMPRISONMENT AND OTHER DISPOSITION

6804A008 01/27/88COST 30.0

6804A008 01/27/88VWAF 25.0

☐ Cont. w/o finding until:☐ Appeal of find. & disp.☐ Appeal of disp.

FINAL DISPOSITION

☐ Discharged from probation☐ Dismissed at request of probation

DATE

COUNT-OFFENSE

DATE

PLEA

☐ Not Guilty ☐ Guilty ☐ Nolo☐ New Plea:☐ Admits suff. facts

FINDING

JUDGE

IMPRISONMENT AND OTHER DISPOSITION

COUNT-OFFENSE

DATE

PLEA

☐ Not Guilty ☐ Guilty ☐ Nolo☐ New Plea:☐ Admits suff. facts

FINDING

JUDGE

IMPRISONMENT AND OTHER DISPOSITION

FINAL DISPOSITION

☐ Discharged from probation☐ Dismissed at request of probation

DATE

17

CONT. TO	PURPOSE	CONT. TO	PURPOSE
5-18-87	I		
12-16-87	I		
12-16-87	I		
1-20-88	pay		

DATE	TAPE NO.	START	STOP

COURT DIVISION

Chelsea

NAME, ADDRESS AND ZIP CODE OF DEFENDANT

William Santiago
52 Hawthorn Street
Chelsea, Mass.

DEF. DOB

3/11/68

OFFENSE CODE(S)

403, 400

DATE OF COMPLAINT

5/15/87

Chelsea

COMPLAINANT

James O'Brien

POLICE DEPARTMENT

Chelsea

DATE OF COMPLAINT

5/18/87

RETURN DATE AND TIME

Arrest

COUNT-OFFENSE

A. DISORDERLY PERSON C272 S53

DATE

5-18-87
12-16-87

PLEA

☒ Not Guilty ☐ Guilty ☐ Nolo☐ New Plea:☒ Admits suff. facts

FINDING 771

JUDGE 2021

IMPRISONMENT AND OTHER DISPOSITION

6804A008 01/27/88COST 31.0

☐ Cont. w/o finding until:☐ Appeal of find. & disp.☐ Appeal of disp.

FINAL DISPOSITION

☐ Discharged from probation☐ Dismissed at request of probation

DATE

COUNT-OFFENSE

3. AFFRAY, COMMON LAW

DATE

5-18-87
12-16-87

PLEA

☒ Not Guilty ☐ Guilty ☐ Nolo☐ New Plea:☒ Admits suff. facts

FINDING 771

JUDGE 2021

IMPRISONMENT AND OTHER DISPOSITION

6804A008 01/27/88COST 30.0

6804A008 01/27/88VWAF 25.0

☐ Cont. w/o finding until:☐ Appeal of find. & disp.☐ Appeal of disp.

FINAL DISPOSITION

☐ Discharged from probation☐ Dismissed at request of probation

DATE

COUNT-OFFENSE

DATE

PLEA

☐ Not Guilty ☐ Guilty ☐ Nolo☐ New Plea:☐ Admits suff. facts

FINDING

JUDGE

IMPRISONMENT AND OTHER DISPOSITION

COUNT-OFFENSE

DATE

PLEA

☐ Not Guilty ☐ Guilty ☐ Nolo☐ New Plea:☐ Admits suff. facts

FINDING

JUDGE

IMPRISONMENT AND OTHER DISPOSITION

FINAL DISPOSITION

☐ Discharged from probation☐ Dismissed at request of probation

DATE

17

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Chelsea District Court
No. 9114 CR 3699, 3700
8714 CR 2106

Commonwealth

v.

William Santiago

DEFENDANT'S MOTION FOR A NEW TRIAL PURSUANT TO RULE
30 (b) OF THE MASSACHUSETTS RULES OF CRIMINAL PROCEDURES

Now comes the defendant, William Santiago, and moves that
this Honorable Court grant him a new trial pursuant to Rule
30 (b) of the Massachusetts Rule of Criminal Procedure.

The grounds for this motion are set out in more detail
in the attached.

Dated: December 9, 2002

Respectfully submitted,

William Santiago

William Santiago, pro se
No. 9114 CR 3699
Chelsea, MA 01404

12/16/02. Denied without
further hearing. There is no

of regularity in these proceedings,
and this motion was not timely filed.

T. H. Gailley, Jr.

MGLA 272 § 53, Penalty for certain offenses

***80116 M.G.L.A. 272 § 53**

MASSACHUSETTS GENERAL LAWS
ANNOTATED
PART IV. CRIMES, PUNISHMENTS
AND PROCEEDINGS IN CRIMINAL
CASES
TITLE I. CRIMES AND
PUNISHMENTS
CHAPTER 272. CRIMES AGAINST
CHASTITY, MORALITY, DECENCY
AND GOOD ORDER

*Current through Chapter 20 of the 2002 Second
Annual Session of the General Court.*

§ 53. Penalty for certain offenses

Common night walkers, common street walkers, both male and female, common railers and brawlers, persons who with offensive and disorderly acts or language accost or annoy persons of the opposite sex, lewd, wanton and lascivious persons in speech or behavior, idle and disorderly persons, disturbers of the peace, keepers of noisy and disorderly houses, and persons guilty of indecent exposure may be punished by imprisonment in a jail or house of correction for not more than six months, or by a fine of not more than two hundred dollars, or by both such fine and imprisonment.

CREDIT(S)

2000 Main Volume

Amended by St.1943, c. 377; St.1956, c. 715, § 21; St.1959,

<General Materials (G-M) - References, Annotations, or Tables>

HISTORICAL NOTES

HISTORICAL AND STATUTORY NOTES

2000 Main Volume

C.L. c. 153, § 1.
St.1699-1700, c. 8, § 2.
St.1769-70, c. 19.

St.1787, c. 54, § 2.
St.1834, c. 151, §§ 2, 3.
R.S.1836, c. 143, §§ 5, 6.
St.1837, c. 157.
St.1837, c. 217.
St.1851, c. 346.
St.1856, c. 186.
G.S.1860, c. 165, §§ 28, 29.
St.1866, c. 253.
St.1874, c. 385, § 21.
St.1876, c. 118.
St.1878, c. 270, § 2.
St.1880, c. 114.
St.1880, c. 257.
P.S.1882, c. 207, §§ 29, 30.
*80117 St.1884, c. 258, § 1.
St.1885, c. 365, § 1.
St.1886, c. 323, § 1.
St.1898, c. 443, § 1.
R.L.1902, c. 85, § 30; c. 212, §§ 46, 48.
St.1914, c. 743.
St.1931, c. 239.

St.1943, c. 377, approved June 1, 1943, rewrote the section, which prior thereto read:

"Rogues and vagabonds, persons who use any juggling or unlawful games or plays, common pipers, and fiddlers, stubborn children, runaways, common drunkards, common nightwalkers, both male and female, persons who with offensive or disorderly act or language accost or annoy in public places persons of the opposite sex, pilferers, lewd, wanton and lascivious persons in speech or behavior, common railers and brawlers, persons who neglect their calling or employment or who misspend what they earn and do not provide for themselves, and all other idle and disorderly persons including therein those persons who neglect all lawful business and habitually misspend their time by frequenting houses of ill fame, gaming houses or tipping shops, may be punished by imprisonment in the Massachusetts reformatory or at the state farm in the case of a male offender, or in the reformatory for women or at the state farm in the case of a female offender, or, for not more than six months, in the house of correction, or by a fine not exceeding two hundred dollars, either with or without a condition that, if it is not paid within a time specified, the person convicted shall be punished by imprisonment under the provisions of chapter two hundred and seventy-nine."

St.1956, c. 715, § 21, approved Sept. 28, 1956, deleted "common drunkards," following "runaways," and "or by imprisonment at the state farm" following "months".

St.1959, c. 304, § 1, approved May 12, 1959, inserted "prostitutes,".

St.1973, c. 1073, § 20, approved Nov. 21, 1973, deleted from the beginning, "Rogues and children, runaways,".

St.1983, c. 66, § 1, approved April 25, 1983, inserted

EXHIBIT

E

MGLA 265 § 13A, Assault or assault and battery; punishment

*77859 M.G.L.A. 265 § 13A

MASSACHUSETTS GENERAL LAWS
ANNOTATED
PART IV. CRIMES, PUNISHMENTS
AND PROCEEDINGS IN CRIMINAL
CASES
TITLE I. CRIMES AND
PUNISHMENTS
CHAPTER 265. CRIMES AGAINST
THE PERSON

*Current through Chapter 20 of the 2002 Second
Annual Session of the General Court.*

§ 13A. Assault or assault and battery;
punishment

Whoever commits an assault or an assault and battery upon another shall be punished by imprisonment for not more than two and one half years in a house of correction or by a fine of not more than five hundred dollars.

A summons may be issued instead of a warrant for the arrest of any person upon a complaint for a violation of any provision of this section if in the judgment of the court or justice receiving the complaint there is reason to believe that he will appear upon a summons.

CREDIT(S)

2000 Main Volume

Added by St.1943, c. 259, § 1. Amended by St.1945, c. 230.

Added by St.1943, c. 259, § 1. Amended by St.1945, c. 230.

HISTORICAL NOTES

HISTORICAL AND STATUTORY NOTES

2000 Main Volume

St.1943, c. 259, § 1, was approved May 10, 1943, and by § 2 made effective Oct. 1, 1943.

St.1945, c. 230, approved April 18, 1945, added the second paragraph.

EXHIBIT

G

REFER

CROSS REFERENCES

Assault during burglary, see c. 266, § 14.
Indictment, form, see c. 277, § 79.
Limitation of period of actions for assault and battery, see c. 260, § 4.
Power of judges and justices to arrest violators, see c. 220, § 3.
Release from jail upon satisfaction for injury from assault and battery with civil liability, see c. 276, §§ 55, 56.
Release or discharge of person confined for violation of this section, notification to department of state police and local authorities, see c. 22C, § 37.

AMERICAN LAW REPORTS

Attempt to commit assault as criminal offense. 79 ALR2d 597.
*77860 Fact that gun was unloaded as affecting criminal responsibility. 79 ALR2d 1412.
Assault on attorney as contempt. 61 ALR3d 500.
Automobile as dangerous or deadly weapon within meaning of assault or battery statute. 89 ALR3d 1026.
Assault: criminal liability as barring or mitigating recovery of punitive damages. 98 ALR3d 870.
Criminal responsibility for physical measures undertaken in connection with treatment of mentally disordered patient. 99 ALR3d 854.
Constitutionality of assault and battery laws limited to protection of females only or which provide greater penalties for males than for females. 5 ALR4th 708.

LAW REVIEW AND JOURNAL
COMMENTARIES

Arrest warrant; legal placebo? (1967) 47 B.U.L.Rev. 244.

Child abuse: In search of a proper defendant. (1978) 13 New Eng.L.Rev. 802.

Non-homicide offense against the person. Rollin M. Poff (1960) 26 B.U.L.Rev. 119.

LITERARY REFERENCES

2000 Main Volume

Assault and Battery \Rightarrow 47, 100.
WESTLAW Topic No. 37.
C.J.S. Assault and Battery §§ 62, 130.
Comments.

Assault and battery, see Alperin and Shubow, 14A Massachusetts Practice § 9.161 et seq. (3d ed.); Nolan and Henry, 32 Massachusetts Practice § 322 et seq. (2d ed.); Bishop, 17B Massachusetts Practice § 52.17 (4th

MGLA 275 § 2, Complaint of threat to commit crime

*80534 M.G.L.A. 275 § 2

MASSACHUSETTS GENERAL LAWS
ANNOTATED
PART IV. CRIMES, PUNISHMENTS
AND PROCEEDINGS IN CRIMINAL
CASES
TITLE II. PROCEEDINGS IN
CRIMINAL CASES
CHAPTER 275. PROCEEDINGS TO
PREVENT CRIMES

*Current through Chapter 20 of the 2002 Second
Annual Session of the General Court.*

§ 2. Complaint of threat to commit crime

If complaint is made to any such court or justice that a person has threatened to commit a crime against the person or property of another, such court or justice shall examine the complainant and any witnesses who may be produced, on oath, reduce the complaint to writing and cause it to be subscribed by the complainant.

<General Materials (GM) - References,
Annotations, or Tables>

HISTORICAL NOTES

HISTORICAL AND STATUTORY NOTES

1994 Main Volume

R.S.1836, c. 134, § 2.
G.S.1860, c. 169, § 2.
P.S.1882, c. 211, § 2.
P.L.1902, c. 216, § 2.

LEGISLATIVE HISTORY

State criminal prosecutions of union officer or member for specific physical threats to employer's property or person, in connection with labor dispute--modern cases. 43 ALR4th 1141.

REFERENCES

LAW REVIEW AND JOURNAL
COMMENTARIES

Survey of key developments in the SJC's recent approach to

domestic violence issues: Jacobsen, Fri
and R.H. v. B.F. Beth I.Z. Boland and
40 Boston B.J. 10 (Jan.-Feb. 1996).

LIBRARY REFERENCES

2002 Electronic Update

Texts and Treatises

12 Am Jur 2d, Breach of Peace and Disorderly Conduct §§
12, 15, 48.

11 Am Jur Proof of Facts 609, Undue Influence.

4 Am Jur Proof of Facts 2d 179, Criminal Acts Committed
Under Duress.

1994 Main Volume

Breach of the Peace § 20.

WESTLAW Topic No. 62.

C.J.S. Breach of the Peace §§ 22, 23. *80535

ANNOTATIONS

NOTES OF DECISIONS

In general 2

Assessment of threat 4.5

Double jeopardy 1.5

Elements of offense 3

Good character evidence 8

Prior acts 5

Probation 7

Review 6

Sufficiency of evidence 4

Validity 1

1. Validity

This chapter is not unconstitutional because of vagueness and overbreadth, and federal district court did not have equitable jurisdiction to grant injunctive relief against enforcement of section and § 6 of this chapter.

Conviction for threatening to commit a crime does not violate a defendant's free speech rights under Federal or State Constitution if evidence is sufficient to satisfy each element of the crime; those elements are defined in a way that prevents a conviction based on protected speech. Com. v. Sholley (2000) 739 N.E.2d 236, 432 Mass. 721.

1.5. Double jeopardy

Sentences imposed on defendant for convictions of violating protective order and threatening to commit various crimes did not violate double jeopardy, even though same conduct gave rise to both convictions; elements of threat

EXHIBIT

I

EXHIBIT

K

MGLA 223 § 31, Summons; leaving at last known address, etc.

65365 M.G.L.A. 223 § 31St.1975, c. 377, § 27.*

**MASSACHUSETTS GENERAL
LAWS ANNOTATED
PART III. COURTS, JUDICIAL
OFFICERS AND PROCEEDINGS IN
CIVIL CASES
TITLE II. ACTIONS AND
PROCEEDINGS THEREIN
CHAPTER 223. COMMENCEMENT
OF ACTIONS, SERVICE OF
PROCESS
SERVICE ON DEFENDANT**

*Current through Ch. 183 of the 2002 Second
Annual Session of the General Court., approved
7/29/2002.*

**§ 31. Summons; leaving at last known
address, etc.**

In an action brought in the district court, if service is made at the last and usual place of abode, the officer making service shall forthwith mail first class a copy of the summons to such last and usual place of abode. The date of mailing and the address to which the summons was sent shall be set forth as required by section thirty-five in the officer's return.

CREDIT(S)

2000 Main Volume

Amended by St.1973, c. 1114, § 90; St.1974, c. 748;

<General Materials (GM) - References,
Annotations, or Tables>

HISTORICAL NOTES**HISTORICAL AND STATUTORY NOTES****2000 Main Volume***St.1700-1, c. 20, § 1.**St.1736-7, c. 12.**St.1797, c. 50, §§ 1, 3.**R.S.1836, c. 90, §§ 41, 45.**G.S.1860, c. 123, § 25.**P.S.1882, c. 161, § 31.**R.L.1902, c. 167, § 31.*

St.1973, c. 1114, § 90, approved Nov. 30, 1973, and by § 351 made effective July 1, 1974, inserted the introductory clause "In an action brought in the district court".

St.1973, c. 1114, conformed the General Laws to the Massachusetts Rules of Civil and Appellate Procedure, also effective July 1, 1974.

St.1974, c. 748, approved Aug. 7, 1974, added the fourth and fifth sentences.

St.1975, c. 377, § 27, approved June 30, 1975, and by § 164 made effective July 1, 1975, deleted the first sentence following the introductory clause and a second and third sentence, which read: "If the summons is not served personally on the defendant, the original or a copy, as the case may be, shall be left at his last and usual place of abode, if he has any within the commonwealth known to the officer. If he has none, it shall be left with his tenant, agent or attorney, if he has any within the commonwealth known to the officer. If he has no such last and usual place of abode and no tenant, agent or attorney, no service on him shall be required except as provided in the three following sections."; and incorporated the introductory clause in the present first sentence.

27

summonses returned unserved which shall include a statement of the efforts made by the person to whom the summonses were delivered for service to serve them. If a summons is mailed pursuant to subdivision (c)(3) of this rule and returned, the clerk shall record that fact upon the list. The officer executing a warrant shall mail a copy thereof to the issuing court. At the request of the prosecutor any unexecuted warrant shall be returned to the issuing court and may be cancelled by that court upon its own motion or upon the motion of the prosecutor. At the request of the prosecutor made at any time while a complaint or an indictment is pending, a summons returned unserved or a warrant returned unexecuted and not cancelled may be delivered to an authorized person for service or execution.

(d) Default.

(1) Costs. A judge may order that expenses incurred as a result of the entry of a default against a defendant are to be assessed as costs against the defendant.

(2) Preservation of Testimony. If counsel for a defendant is present upon the entry of a default against the defendant and if the judge finds that to require the attendance at a later time of a witness then present in court would constitute a hardship upon the witness because of age, infirmity, illness, profession or other sufficient reason, the judge may order that the testimony of the witness be taken and preserved for subsequent use at trial or any other proceeding. The witness shall be examined in open court by the party on whose behalf he is present and the adverse party shall have the right of cross-examination. The expense of taking and preserving the testimony may be assessed against the party requesting the taking of the testimony.

2922

HISTORICAL NOTES

REPORTER'S NOTES

1995 Main Volume

Rule 6 was drafted with the aim of dispensing with unnecessary appearances by defendants, their attorneys and witnesses and insuring that defendants who are unlikely to flee pending their initial appearance may be at liberty without restriction.

Subdivision (a). Under prior practice, after a finding of probable cause—whether upon an application for issuance of process or upon presentment to a grand jury—arrest warrants were to be issued in the majority of cases. G.L. c. 276, § 22. The issuance of a summons in lieu of a warrant was the exception under the law, if not in practice.

Under G.L. c. 276, § 24, a summons was to be issued only in those instances where the District Court had final jurisdiction over the offense charged and the court believed a summons would sufficiently guarantee the defendant's appearance in court.

Under this rule the permissible use of a summons is greatly expanded. Whenever it is determined that process shall issue upon an application, the District Court shall authorize the issuance of a warrant, except in cases where the accused is a juvenile less than twelve years of age. G.L. c. 119, § 54. Whenever a direct indictment is returned against a defendant, the Superior Court shall authorize the issuance of a warrant. In both instances, however, the warrant will not be immediately issued for execution unless the court determines that the defendant will not likely appear upon a summons alone.

This rule reflects the policy underlying current efforts to secure the release prior to trial of all defendants who have sufficient roots in the community to guarantee their presence at trial. Federal Rule of Criminal Procedure 4 requires a magistrate to issue a summons rather than an arrest warrant only "upon the request of the attorney for the government" after probable cause is found. Section 3.3 of the ABA Standards Relating to Pretrial Release (Approved Draft, 1968) provides for the use of a summons instead of a warrant except where specific reasons are shown. See also, e.g., ABA Standards of Criminal Procedure (1975) (A.A.) Rule 2.1(c) (1974); National Advisory Commission on Criminal Justice Standards & Goals, Courts, Standard 4.2 (1973). See Vermont R.Crim.P. 4 (1974).

29

defendant that he will not impose a sentence that exceeds the terms of the recommendation without first giving the defendant the right to withdraw his plea.

(3) Notice of Consequences of Plea. The judge shall inform the defendant, or permit defense counsel under the direction of the judge to inform the defendant, on the record, in open court:

(A) that by his plea of guilty or nolo contendere he waives his right to trial with or without a jury, his right to confrontation of witnesses, and his privilege against self-incrimination;

(B) where appropriate, of the maximum possible sentence on the charge, including that possible from consecutive sentences; of any different or additional punishment based upon second offense or sexually dangerous persons provisions of the General Laws, if applicable; and of the mandatory minimum sentence, if any, on the charge.

(4) Tender of Plea. The defendant's plea shall then be tendered to the court.

(5) Hearing on Plea; Acceptance. The judge shall conduct a hearing to determine the voluntariness of the plea and the factual basis of the charge.

*75938 (A) Factual Basis for Charge. A judge shall not accept a plea of guilty unless he is satisfied that there is a factual basis for the charge. The failure of the defendant to acknowledge all of the elements of the factual basis shall not preclude a judge from accepting a guilty plea if the judge is satisfied of cause therefor. At the hearing on the plea, the factual basis of the guilty plea and the reasons therefor may be made on the record at the bench.

(B) Acceptance. At the conclusion of the hearing the judge shall state his acceptance or rejection of the plea.

(C) Sentencing. After acceptance of a plea of guilty or nolo contendere, the judge may proceed with sentencing.

(6) Refusal to Accept an Agreed Sentence Recommendation. If the judge determines that he will impose a sentence that will exceed an

agreed recommendation for a particular sentence or type of punishment under subdivision (b)(1)(C) of this rule or an agreed recommendation for a particular disposition other than incarceration under subdivision (b)(1)(E), after having informed the defendant as provided in subdivision (c)(2) that he would not do so, he shall, on the record, advise the defendant personally in open court or on a showing of cause, in camera, that he intends to exceed the terms of the plea recommendation and shall afford the defendant the opportunity to then withdraw his plea. The judge may indicate to the parties what sentence he would impose.

(d) Withdrawal of Plea. If a defendant withdraws a plea of guilty or nolo contendere, the case may be advanced for trial. The fact that an agreed recommendation was tendered and rejected, but not the terms thereof, shall be entered on the record. If the defendant subsequently tenders a plea of guilty or nolo contendere, no recommendation as to disposition which is based upon the prior plea negotiations shall be offered by the prosecutor, but the prosecutor may address the court as to the nature and seriousness of the offense charged and may propose a disposition and the judge may permit the defendant or his counsel to propose a disposition.

(e) Availability of Criminal Record and Presentence Report. The criminal record of the defendant shall be made available. Upon the written motion of either party made at the tender of a plea of guilty or nolo contendere, the presentence report as described in subdivision (d)(2) of Rule 28 shall be made available to the parties and the court for the defendant's inspection. In extraordinary cases, the judge may except from disclosure parts of the report which are not relevant to a proper sentence, diagnostic opinion which might seriously disrupt a program of rehabilitation, sources of information obtained upon a promise of confidentiality, or any other information which, if disclosed, might result in harm, physical or otherwise, to the defendant or other persons. If the report is not made fully available, the portions thereof which are not disclosed shall not be relied upon in determining sentence. No party may make any copy of the

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Chelsea District
Criminal Matter
Nos. 9114CR3699
9114CR3700
8714CR2106

Commonwealth

v.

William Santiago

NOTICE OF APPEAL

NOTICE, is hereby given that in above-entitled case. The defendant, William Santiago hereby appeals Justice, Gailey's decision to deny Mr. Santiago's **MOTION FOR A NEW TRIAL.**

Mr. Santiago hereby appeals pursuant to Mass.R.A.P. 3 and 12.

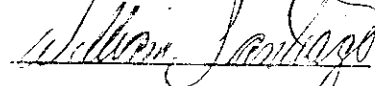
Justice Gailey's decision was based only on the documents without a hearing on December 16, 2002.

Therefore Mr. Santiago states that no transcripts are needed or required in this matter.

The Record may be fully assembeled and sent to the Appeals Court per the Mass. R.A.P. rules.

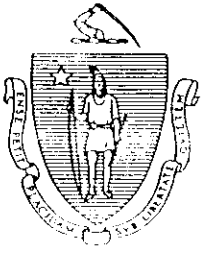
Dated: December 30, 2002

Respectfully submitted,



William Santiago, pro se
P.O. BOX 8000
Shirley, MA.
01464

39



COMMONWEALTH OF MASSACHUSETTS

APPELLATE DIVISION OF THE DISTRICT COURT DEPARTMENT

NORTHERN DISTRICT
40 THORNDIKE ST., P.O. BOX 396
EAST CAMBRIDGE, MA 02141

AREA CODE (617) 494-4357

JUSTICES

MARK S. COVEN
ROBERT V. GRECO
PATRICIA G. CURTIN
MILTON L. WRIGHT, JR.

APPELLATE DIVISION ATTORNEY
SUZANNE HURLEY

BRIAN R. MERRICK
PRESIDING JUSTICE

August 11, 2003

Mr. William Santiago
P. O. Box 8000
Shirley, MA 01464

RE: Chelsea District Court Nos. 8714-CR-2106; 9114-CR-3699; 9114-CR-3700
Newburyport District Court No. 9722-CR-0993

Dear Mr. Santiago:

The Appellate Division has received your letter of August 5, 2003 relative to your claim that the Chelsea and Newburyport District Courts have not responded to your notices of appeal in the above referenced cases. It may be inferred that any lack of response might be due to the fact that you are attempting to appeal cases which are in some instances sixteen years old.

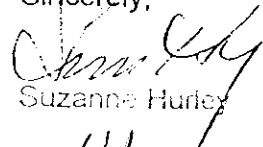
In any event, this Appellate Division of the District Court Department does not have jurisdiction over appeals in criminal cases. You may wish to direct your inquiries about criminal appeals to the Massachusetts Appeals Court at the following address:

Appeals Court
1500 New Courthouse
Pemberton Square
Boston, MA 02108.

I have forwarded your letter to the Clerk's Office of the District Court Department.

As this Appellate Division lacks jurisdiction, do not forward additional inquiries about these criminal cases to this office.

Sincerely,


Suzanne Hurley

41

cc: Appeals Court
Criminal Clerk's Office, Newburyport Division
Criminal Clerk's Office, Chelsea Division



COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss

Chelsea District Court
Docket # 91 cr 3699
91 cr 3700
Def. Warr. 9114 sp 155

A. Santiago

Vs.

Wm. Santiago


NOTICE OF STIPULATION OF DISMISSAL

I Arlene Santiago, the plaintiff, respectfully moves, pursuant to Mass. Rule Civil Procedure 41(a), that the above-entitled matter be dismissed based on I no longer have interest in pursuing this matter.

I, the defendant Wm. Santiago respectfully moves pursuant to Mass. Rule Civil Procedure 41(a), that the above-entitled matter be dismissed. I also have no interest in pursuing the matter.

Signed under the pains and penalty of perjury this 16th day of April, 1994,


Arlene Santiago


William Santiago

APPEAL COURT MEMORANDUM OF LAW
MEMORANDUM OF LAW OF THE APPELLEE
EXHIBIT B

COMMONWEALTH OF MASSACHUSETTS
APPEALS COURT

SUFFOLK, ss.

No. 03-P-1147

COMMONWEALTH OF MASSACHUSETTS,
Appellee

v.

WILLIAM SANTIAGO,
Defendant-Appellant

MEMORANDUM OF LAW IN LIEU OF BRIEF FOR THE
COMMONWEALTH ON APPEAL FROM THE DENIAL OF THE
DEFENDANT'S MOTION FOR A NEW TRIAL

ISSUES PRESENTED

1. Whether the defendant's appeal from cases 8714-CR-2106, 9114-CR-3699, and 9114-CR-3700, out of the Chelsea District Court, is properly before this Court.
2. Whether the defendant, in any event, has failed to submit evidence sufficient to rebut the presumption of regularity accorded to the proceedings in these decades old cases.

STATEMENT OF THE CASE

On December 16, 1987, the defendant, William Santiago, appeared in the Chelsea District Court in

The defendant filed a notice of appeal on June 6, 2003 (C.A. 2, 4, 6).³ The case was docketed in this Court on September 2, 2003.

STATEMENT OF FACTS

The facts of this case are procedural in nature and are set forth above.

ARGUMENT

I. THE DEFENDANT'S APPEAL FROM CASES 8714-CR-2106, 9114-CR-3699, AND 9114-CR-3700, OUT OF THE CHELSEA DISTRICT COURT, IS NOT PROPERLY BEFORE THIS COURT.

The three cases from which the defendant appeals are not the proper subject of an appeal, and are therefore not properly before this court. The first, case, number 8714-CR-2106, was dismissed upon payment of court costs and a victim witness fee (R. 20, C.A. 1). Although a finding of sufficient facts was entered in the case (C.A. 1), a guilty finding was never entered (R. 20, C.A. 1), and the finding of sufficient facts standing alone is not an appealable order. See *Commonwealth v. Walsh*, 43 Mass. App. Ct.

³ The defendant claims the notice was filed on December 30, 2002 (D. Br. 1). The dockets reflect a date of June 6, 2003, however. (C.A. 2, 4, 6). The notice of appeal was not, therefore, timely filed. See Mass. R. App. P. 4(b).

II. THE DEFENDANT, IN ANY EVENT, HAS FAILED TO SUBMIT EVIDENCE SUFFICIENT TO REBUT THE PRESUMPTION OF REGULARITY ACCORDED TO THE PROCEEDINGS IN THESE DECADES OLD CASES.

As to case number 8714-CR-2106, the defendant makes various claims, including that he was not represented by counsel and did not waive his right to a jury trial (D. Br. 2-6, R. 2-10). As to the claims regarding representation by counsel and jury trial waiver, the record indicates that the defendant was advised of his right to counsel and waived that right, as well as his right to a jury trial (C.A. 1, 7). As to the other claims, the defendant has failed to submit evidence sufficient to rebut the presumption of regularity accorded to these decades old proceedings. See *Commonwealth v. Grant*, 426 Mass. 667, 671 (1998); *Commonwealth v. Lopez*, 426 Mass. 657, 661-665 (1998). Furthermore, the dismissal of criminal charges renders moot any defects in the underlying proceedings. See *Commonwealth v. Villalobos*, 437 Mass. 797, 799 (2002); *Burns v. Commonwealth*, 430 Mass. 444, 447 (1999).

As to cases 9114-CR-3699 and 9114-CR 3700, the defendant, again, has failed to submit evidence sufficient to rebut the presumption of regularity.

ADDENDUM

20 Am Jur 2d, Costs §§ 100-104.

ANNOTATIONS--

Items of costs of prosecution for which defendant may be held. 65 ALR2d 854.

Propriety of conditioning probation or suspended sentence on defendant's refraining from political activity, protest, or the like. 55 ALR3d 1022.

TEXTS--

Blumenson, Fisher, and Kanstroom, Massachusetts Criminal Practice (Michie) §§ 9.1-9.10.

LAW REVIEW REFERENCES--

Kamens, Sentencing and Other Dispositions in the District Courts. 69 Mass L Rev 126, September, 1984.

CASE NOTES

Five hundred dollar costs imposed in addition to fine for conviction of crime was prohibited by ALM GL c 280 § 6. Commonwealth v Scagliotti (1977) 373 Mass 626, 371 NE2d 726.

Costs improperly assessed under MRCrimP, Rule 6(d)(1) were not also in violation of ALM GL c 280 § 6. Commonwealth v Gomes (1990) 407 Mass 206, 552 NE2d 101.

District Court judge could have required defendant to pay reasonable and actual expenses of prosecution in imposing disposition of continuance without finding, but judge could not impose condition to disposition that defendant pay \$ 5000 to complaining victim. Commonwealth v Rotonda (2001) 434 Mass 211, 747 NE2d 1199.

Judge did not err in imposing costs as term of probation. Commonwealth v Casserly (1986) 23 Mass App 947, 501 NE2d 540, review den 399 Mass 1102, 504 NE2d 1066.

Statute prohibiting imposition of costs as penalty for crime [ALM GL c 280 § 6] does not clash with victim/witness fund assessment statute [ALM GL c 258B § 8]. Commonwealth v Zawatsky (1996) 41 Mass App 392, 670 NE2d 969.

Source: [Legal > States Legal - U.S. > Massachusetts > Statutes & Regulations > MA - Annotated Laws of Massachusetts](#) [\[i\]](#)

TOC: [Annotated Laws of Massachusetts > /.../ > CHAPTER 280. FINES AND FORFEITURES > § 6. Expenses of Prosecution.](#)

Terms: [280 / 2 6 \(Edit Search\)](#)

View: Full

Date/Time: Wednesday, November 19, 2003 - 10:10 AM EST

[About LexisNexis](#) | [Terms and Conditions](#)

Copyright © 2003 LexisNexis, a division of Reed Elsevier Inc. All rights reserved.

COMMONWEALTH'S SUPPLEMENTAL RECORD APPENDIX

Docket Sheets for Case No. 8714-CR-2106	C.A. 1-2
Docket Sheets for Case No. 9114-CR-3699	C.A. 3-4
Docket Sheets for Case No. 9114-CR-3700	C.A. 5-6
Waiver of Counsel	C.A. 7

COURT DIVISION
Chelsea

NAME, ADDRESS AND ZIP CODE OF DEFENDANT

William Santiago
52 Hawthorn Street
Chelsea, Mass.

DEF. DOB

3/11/68

OFFENSE CODE(S)

401.400

DATE OF OFFENSE

5/15/87

PLACE OF OFFENSE

Chelsea

COMPLAINANT

James O'Brien

POLICE DEPARTMENT

Chelsea

DATE OF COMPLAINT

5/18/87

RETURN DATE AND TIME

Arrest

COUNT-OFFENSE

A. DISORDERLY PERSON C272 S53

DATE

5-18-87

PLEA

☒ Not Guilty☐ Guilty☐ Nolo☐ New Plea:☒ Admits suff. facts

FINDING 771

JUDGE 2071

IMPRISONMENT AND OTHER DISPOSITION

6804A008 01/27/88COST

50.0

☐ Cont. w/o finding until:☐ Appeal of find. & disp.☐ Appeal of disp.

FINAL DISPOSITION

☐ Discharged from probation☐ Dismissed at request of probation

COUNT-OFFENSE

B. AFFRAY, COMMON LAW

DATE

5-18-87

PLEA

☒ Not Guilty☐ Guilty☐ Nolo☐ New Plea:☒ Admits suff. facts

FINDING 771

JUDGE 2071

IMPRISONMENT AND OTHER DISPOSITION

6804A008 01/27/88COST

50.0

6804A008 01/27/88VAF

25.0

☐ Cont. w/o finding until:☐ Appeal of find. & disp.☐ Appeal of disp.

FINAL DISPOSITION

☐ Discharged from probation☐ Dismissed at request of probation

COUNT-OFFENSE

DATE

PLEA

☐ Not Guilty☐ Guilty☐ Nolo☐ New Plea:☐ Admits suff. facts

FINDING

JUDGE

IMPRISONMENT AND OTHER DISPOSITION

☐ Cont. w/o finding until:☐ Appeal of find. & disp.☐ Appeal of disp.

FINAL DISPOSITION

☐ Discharged from probation☐ Dismissed at request of probation

COUNT-OFFENSE

DATE

PLEA

☐ Not Guilty☐ Guilty☐ Nolo☐ New Plea:☐ Admits suff. facts

FINDING

JUDGE

IMPRISONMENT AND OTHER DISPOSITION

☐ Cont. w/o finding until:☐ Appeal of find. & disp.☐ Appeal of disp.

FINAL DISPOSITION

☐ Discharged from probation☐ Dismissed at request of probation

CONT TO

PURPOSE

CONT. TO

PURPOSE

7-23-87

T

10-9-87

T

12-16-87

T

1-20-88

P

C.A. 1

DATE	TAPE NO.	START	STOP
- 3	603	350	601

COURT DIVISION: **CRIMINAL**

NAME, ADDRESS AND ZIP CODE OF DEFENDANT:
William Santiago
C/O Jean's West
Assembly Square Mall
133 Middlesex Avenue
Somerville MA 02145

DEF. DOB AND SEX: _____

DATE OF OFFENSE: **8/4/91**

COMPLAINANT: **Arlene Santiago**

DATE OF COMPLAINT: **9/5/91 H.**

OFFENSE CODE(S): **265**

PLACE OF OFFENSE: **52 Hawthorne Street, Chelsea**

POLICE DEPARTMENT (if applicable): **Chelsea**

RETURN DATE AND TIME: **10/4/91 8:30 A.M.**

COUNT-OFFENSE: **A. ASSAULT AND BATTERY C265 S13A**

DATE: **OCT 26 1994**

PLEA: ☐ Not Guilty ☐ Guilty ☐ Nolo

☐ New Plea: _____ ☐ Admits suff. facts

FINDING: _____ JUDGE: **Cap**

☐ Cont. w/o finding until: _____

☐ Appeal of find. & disp. ☐ Appeal of disp.

COUNT-OFFENSE: _____

DATE: _____

PLEA: ☐ Not Guilty ☐ Guilty ☐ Nolo

☐ New Plea: _____ ☐ Admits suff. facts

FINDING: _____ JUDGE: _____

☐ Cont. w/o finding until: _____

☐ Appeal of find. & disp. ☐ Appeal of disp.

COUNT-OFFENSE: _____

DATE: _____

PLEA: ☐ Not Guilty ☐ Guilty ☐ Nolo

☐ New Plea: _____ ☐ Admits suff. facts

FINDING: _____ JUDGE: _____

☐ Cont. w/o finding until: _____

☐ Appeal of find. & disp. ☐ Appeal of disp.

COUNT-OFFENSE: _____

DATE: _____

PLEA: ☐ Not Guilty ☐ Guilty ☐ Nolo

☐ New Plea: _____ ☐ Admits suff. facts

FINDING: _____ JUDGE: _____

☐ Cont. w/o finding until: _____

☐ Appeal of find. & disp. ☐ Appeal of disp.

CONT. TO	PURPOSE	CONT. TO	PURPOSE
NOV 16 26 94	HABE		
11-2-94	HABE		
11-5-94	HABE		

ATTORNEY NAME: _____

☐ Waived ☐ Retained ☒ Assigned **Numerous**

TERMS OF RELEASE: _____

DATE: **OCT 26 1994**

PROCEEDING: **10-4-91**

☒ Arraigned before J. **EJP**

☒ Advised of right to counsel

☐ Advised of right to drug exam

☐ Advised of right to bail review

☐ Advised of right to F.I. Jury Trial

☐ Waives ☐ Requests F.I. Jury Trial

☐ Advised of alien rights

☒ Warrant issued ☐ Default warrant issued

☒ Default removed ☐ Warrant recalled

☐ Warrant issued ☐ Default warrant issued

☐ Default removed ☐ Warrant recalled

FINE: _____ SURFINE: _____ COSTS: _____ TOTAL DUE: _____

IMPRISONMENT AND OTHER DISPOSITION: **NP Cited w/o charges**

FINAL DISPOSITION: ☐ Discharged from probation ☐ Dismissed at request of probation

DATE: _____

FINE: _____ SURFINE: _____ COSTS: _____ TOTAL DUE: _____

IMPRISONMENT AND OTHER DISPOSITION: _____

FINAL DISPOSITION: ☐ Discharged from probation ☐ Dismissed at request of probation

DATE: _____

FINE: _____ SURFINE: _____ COSTS: _____ TOTAL DUE: _____

IMPRISONMENT AND OTHER DISPOSITION: _____

FINAL DISPOSITION: ☐ Discharged from probation ☐ Dismissed at request of probation

DATE: _____

FINE: _____ SURFINE: _____ COSTS: _____ TOTAL DUE: _____

IMPRISONMENT AND OTHER DISPOSITION: _____

FINAL DISPOSITION: ☐ Discharged from probation ☐ Dismissed at request of probation

DATE: _____

DATE	TAPE NO.	START	STOP
NOV 5 1994	663	350	Gold

COURT DIVISION CHELSEA		NAME, ADDRESS AND ZIP CODE OF DEFENDANT William Santiago C/O Jean's Best Assembly Square Mall 133 Middlesex Avenue Somerville MA 02145		ARRESTED BY <input type="checkbox"/> Waived <input type="checkbox"/> Retained <input checked="" type="checkbox"/> Assigned <i>N. Williams</i>	
DEF. DOB AND SEX		OFFENSE CODE(S) 509,543		TERMS OF RELEASE	
DATE OF OFFENSE 8/4/91		PLACE OF OFFENSE 52 Hawthorne St. Chelsea		DATE OCT 26 1994	
COMPLAINANT Bruce D. Imbucuan		POLICE DEPARTMENT (if applicable) Chelsea		PROCEEDING <input checked="" type="checkbox"/> Arraigned before J. <i>EPH</i> <input type="checkbox"/> Advised of right to counsel <input type="checkbox"/> Advised of right to drug exam <input type="checkbox"/> Advised of right to bail review <input type="checkbox"/> Advised of right to F.I. Jury Trial <input type="checkbox"/> Waives <input type="checkbox"/> Requests F.I. Jury Trial <input type="checkbox"/> Advised of alien rights	
DATE OF COMPLAINT 9/5/91 H.		RETURN DATE AND TIME 10/4/91 8:30 A.M.		10-4-91 <input checked="" type="checkbox"/> Warrant issued <input checked="" type="checkbox"/> Default warrant issued <input checked="" type="checkbox"/> Default removed <input checked="" type="checkbox"/> Warrant recalled <input type="checkbox"/> Warrant issued <input type="checkbox"/> Default warrant issued <input type="checkbox"/> Default removed <input type="checkbox"/> Warrant recalled	
COUNT-OFFENSE A. MAL. DESTRUCTION OF PROP. UNDER \$250 C266 S127		FINE		SURFINE	
DATE OCT 26 1994		IMPRISONMENT AND OTHER DISPOSITION <i>NP Pled w/o Charge of Plea</i>		COSTS	
PLEA <input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo <input type="checkbox"/> New Plea: <input type="checkbox"/> Admits suff. facts		JUDGE <i>EPH</i>		TOTAL DUE	
FINDING OCT 26 1994		FINAL DISPOSITION <input type="checkbox"/> Discharged from probation <input type="checkbox"/> Dismissed at request of probation		DATE	
<input type="checkbox"/> Cont. w/o finding until: <input type="checkbox"/> Appeal of find. & disp. <input type="checkbox"/> Appeal of disp.					
COUNT-OFFENSE B. THREATENING TO COMMIT A CRIME C275 S2		FINE		SURFINE	
DATE OCT 26 1994		IMPRISONMENT AND OTHER DISPOSITION <i>NP Pled w/o Charge of Plea</i>		COSTS	
PLEA <input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo <input type="checkbox"/> New Plea: <input type="checkbox"/> Admits suff. facts		JUDGE <i>EPH</i>		TOTAL DUE	
FINDING OCT 26 1994		FINAL DISPOSITION <input type="checkbox"/> Discharged from probation <input type="checkbox"/> Dismissed at request of probation		DATE	
<input type="checkbox"/> Cont. w/o finding until: <input type="checkbox"/> Appeal of find. & disp. <input type="checkbox"/> Appeal of disp.					
COUNT-OFFENSE		FINE		SURFINE	
DATE		IMPRISONMENT AND OTHER DISPOSITION		COSTS	
PLEA <input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo <input type="checkbox"/> New Plea: <input type="checkbox"/> Admits suff. facts				TOTAL DUE	
FINDING		FINAL DISPOSITION <input type="checkbox"/> Discharged from probation <input type="checkbox"/> Dismissed at request of probation		DATE	
<input type="checkbox"/> Cont. w/o finding until: <input type="checkbox"/> Appeal of find. & disp. <input type="checkbox"/> Appeal of disp.					
COUNT-OFFENSE		FINE		SURFINE	
DATE		IMPRISONMENT AND OTHER DISPOSITION		COSTS	
PLEA <input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo <input type="checkbox"/> New Plea: <input type="checkbox"/> Admits suff. facts				TOTAL DUE	
FINDING		FINAL DISPOSITION <input type="checkbox"/> Discharged from probation <input type="checkbox"/> Dismissed at request of probation		DATE	
<input type="checkbox"/> Cont. w/o finding until: <input type="checkbox"/> Appeal of find. & disp. <input type="checkbox"/> Appeal of disp.					
COUNT-OFFENSE		FINE		SURFINE	
DATE		IMPRISONMENT AND OTHER DISPOSITION		COSTS	
PLEA <input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo <input type="checkbox"/> New Plea: <input type="checkbox"/> Admits suff. facts				TOTAL DUE	
FINDING		FINAL DISPOSITION <input type="checkbox"/> Discharged from probation <input type="checkbox"/> Dismissed at request of probation		DATE	
<input type="checkbox"/> Cont. w/o finding until: <input type="checkbox"/> Appeal of find. & disp. <input type="checkbox"/> Appeal of disp.					

CONT. TO	PURPOSE	CONT. TO	PURPOSE
10-26-94	FILE		
10-31-94	FILE		
10-2-95	FILE		
10-5-95	FILE		

DATE	TAPE NO.	START	STOP
NOV - 2	603	850	900

**WAIVER OF COUNSEL
WAIVER OF INITIAL JURY TRIAL**

DOCKET NUMBER

**Trial Court of Massachusetts
District Court Department**


JURY DIVISION

COMMONWEALTH VS.

NAME OF DEFENDANT

WAIVER OF COUNSEL

I, the above named defendant, have been informed of my right to have a lawyer represent me at every stage of the proceedings in this case, and that if I cannot afford to hire my own lawyer, this Court will assign the Committee for Public Counsel Services to provide representation for me. KNOWING THAT I HAVE A RIGHT TO HAVE A LAWYER REPRESENT ME, I NEVERTHELESS ELECT TO PROCEED IN THIS MATTER WITHOUT A LAWYER AND WAIVE MY RIGHT TO SUCH A LAWYER.

DATE

SIGNATURE OF DEFENDANT

DATE

SIGNATURE OF PARENT/GUARDIAN OF JUVENILE

WAIVER OF RIGHT TO INITIAL JURY TRIAL

- ☐ Counsel Waived
☐ Represented by Counsel

I, the above named defendant, have been informed of my right to have a jury trial in the first instance. I understand this notice. I hereby waive my right to a jury trial in the first instance on the complaint(s) specified above.

I understand that after this waiver, I may immediately appeal for a new trial before a jury if I am found guilty either after a trial or upon my admission to sufficient facts to warrant a finding of guilty. I also understand that if I plead guilty, I will not have any right to a new trial.

DATE

SIGNATURE OF DEFENDANT

DATE

SIGNATURE OF PARENT/GUARDIAN OF JUVENILE